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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/334,054 06/15/99 JOHNSON

D 11381

022827  
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IM52/1030

EXAMINER

NOLAN, S

ART UNIT

PAPER NUMBER

1772

DATE MAILED:

10/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**

Application No.

09/334,054

Applicant(s)

JOHNSON, DAVID W.

Examiner

Sandra M. Nolan

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 23,24 and 26-30 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-9 and 13 is/are allowed.
- 6) ☒ Claim(s) 1-5,10-12,14-22,25 and 31-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-35 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restriction***

1. Newly submitted claims 23, 24 and 26-30 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the other claims of the application deal with the use of silica particles as surface modifiers. New claims 23, 24 and 26-30 cover the use of metal oxides/aluminum oxide instead of silica.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 2, 24 and 26-30 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Rejections Maintained***

2. The 35 USC 102 rejection of claims 12, 14, and 16-18 as anticipated by Payet et al (US 5,332,612), as set out in paragraph 3 of the April 13, 2001 Office Action (Paper No. 9), is maintained for the reasons made of record.

3. The 35 USC 103 rejection of claims 1-5, 11, 12, and 15-19, now claims 1-5, 11, 12, 15-22, 25, and 31-35, as unpatentable over Nash (US 5,620,773) in view of Payet et al, as recited in paragraph 6 of Paper No. 9, is maintained for the reasons made of record.

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4. The 35 USC 103 rejection of claim 10 as unpatentable over Nash and Payet et al taken with Momose (US 4,851,266), as set out in paragraph 7 of Paper No. 9, is maintained for the reasons made of record.

***Response to Arguments***

5. Applicant's arguments filed in the response dated August 17, 2001 (Paper No. 11) have been fully considered but they are not persuasive.

On page 6 of Paper No. 11, Applicant argues that Payet et al is applying a layer of pulverulent material between elastomeric and latex layers.

The Examiner disagrees. Payet et al teaches that the particulate colloidal silica on the rubber surface helps to keep the latex coating from forming droplets on the hydrophobic elastomeric substrate by absorbing the coagulant salt in the latex, so that the latex spreads evenly over the elastomeric surface (col. 1, lines 9-12 and 38 and the sentence bridging cols 1 and 2). This not the same as a separate layer of silica particles formed between the elastomer and latex layers.

Also on page 6, Applicant describes Nash as teaching that texturizing silica particle are embedded on the inner surface of gloves and that that teaching does not suggest the use of such particles on the outer surface of gloves.

The Examiner disagrees. The silica coating of Nash is on the inner surface. However, the silica coating of Payet et al is on the outer surface of elastomeric articles of any kind so long as latex coating is involved (see col. 2, lines 51+ of Payet et al). Since latex gloves are produced using latex coatings, the use of Nash's texturizing particles on the outer surface of same, per Payet et al, is suggested by the references.

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On page 7 of Paper No. 11, Applicant discusses the Momose et al patent in general terms, saying only that claim 10, against which Momose et al was applied, further limits and defines the invention of claim 1.

Since Applicant has presented no detailed statements re: the Momose et al teachings, the Examiner will not comment further on that reference here.

### ***Final Rejection***

**6. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

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If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.

*SMN*

SMN/smn  
October 26, 2001  
09334054(12)

*Harold Pyon*  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
*1772*

*10/29/01*